

BILL LOCKYER, Attorney General  
of the State of California  
THEODORA BERGER  
Assistant Attorney General  
G. LYNN THORPE (Bar No. 112122)  
Deputy Attorney General  
ROSE B. FUA (Bar No. 119757)  
Deputy Attorney General  
1300 I Street, Suite 1001  
P. O. Box 944255  
Sacramento, California 94244-2550  
Telephone: (915) 322-9226  
Fax: (916) 327-2319

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SAN MATEO COUNTY

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Attorneys for Plaintiffs People of the  
State of California, ex rel. B. B. Blevins,  
Director, Department of Toxic Substances Control

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN MATEO

PEOPLE OF THE STATE OF CALIFORNIA, ex rel.  
B. B. Blevins, Director, Department of Toxic  
Substances Control,

Plaintiff,

v.

ROMIC ENVIRONMENTAL TECHNOLOGIES  
CORPORATION, a California corporation

Defendant.

Case No.: CIV 4 4 6 0 3 6

**COMPLAINT FOR CIVIL  
PENALTIES, INJUNCTIVE  
RELIEF, AND RECOVERY OF  
COSTS OF INVESTIGATION  
PURSUANT TO CALIFORNIA  
HAZARDOUS WASTE  
CONTROL LAW**

The People of the State of California, ex rel. B. B. Blevins, Director of the  
Department of Toxic Substances Control, allege as follows:

PLAINTIFF

1. B. B. Blevins is the Director of the California Department of Toxic  
Substances Control, which is the successor to the Department of Health Services, Toxic  
Substances Control Program (hereafter collectively referred to as "DTSC"). The Department is a  
public agency of the State of California organized and existing under and pursuant to sections

1 58000 *et seq.* of the Health and Safety Code. The Department is the state agency responsible for  
2 the administration of the Hazardous Waste Control Law, Chapter 6.5 of Division 20 of the  
3 Health and Safety Code sections 25100 *et seq.* (HWCL).

4 2. Pursuant to Health and Safety Code section 25182, the Attorney General  
5 of the State of California is authorized to commence an action for civil penalties under the  
6 HWCL in the name of the People of the State of California at the request of the Department.

7 DEFENDANT

8 3. Romic Environmental Technologies Corporation (“Romic”) is, and at all  
9 times relevant here was, a California corporation organized under the laws of California. Romic  
10 has its principal offices in East Palo Alto, San Mateo County, California. Romic owns and  
11 operates a hazardous waste facility located at 2081 Bay Road, East Palo Alto, California (“East  
12 Palo Alto facility”), which accepts hazardous waste from offsite generators, primarily spent  
13 solvents, for recycling and treatment.

14 4. Romic also operates a rail terminal facility at 695 Seaport Boulevard,  
15 Redwood City, California (“Rail Terminal facility”) at which Romic stores and transfers a  
16 variety of hazardous wastes, predominately solvents.

17 5. Romic is a "person" as defined at Health & Safety Code section 25118.  
18 Romic is an "owner" and/or "operator," as defined at title 22, California Code of Regulations  
19 (“Cal. Code Reg.”), section 66260.10.

20 6. When reference is made in this complaint to any act of Romic, such  
21 allegation shall mean that defendant, or employees or representatives of defendant, did, or  
22 authorized, such acts, or failed and omitted adequately or properly to supervise, control or direct  
23 their employees or representatives while engaged in the management, direction, operation or  
24 control of the affairs of Romic and did so while acting within the course and scope of their  
25 employment or agency.

26 JURISDICTION AND VENUE

27 7. This court has jurisdiction pursuant to Cal. Const. Art. 6, section 10.  
28

Venue is proper under Health and Safety Code section 25183 as the alleged acts occurred in San Mateo County.

### STATEMENT OF THE CASE

8. The Department seeks civil penalties and injunctive relief against the defendant pursuant to Health and Safety Code sections 25189, 25189.2, 25181 and 25184 for violations of the HWCL, which governs the operation of hazardous waste storage, transportation, treatment, and disposal.

### STATUTORY AND REGULATORY BACKGROUND

9. The State of California has enacted a comprehensive statutory and regulatory framework for the generation, handling, treatment, transport and disposal of hazardous wastes. The framework contained in the HWCL, and its implementing regulations, title 22, Cal. Code Reg., sections 66260.1 *et seq.*, mandate a "cradle to grave" registration, tracking, storage, treatment and disposal system for the protection of the public from the risks posed by hazardous wastes.

10. Health and Safety Code section 25189(b) makes liable any person who intentionally or negligently violates any provision of the HWCL or any permit, rule, regulation, standard, or requirement issued or promulgated pursuant to the HWCL for a civil penalty not to exceed \$25,000 for each violation of a separate provision or, for continuing violations, \$25,000 for each day that a violation continues.

11. Health and Safety Code section 25189.2(b) makes any person who violates any provision of the HWCL or any permit, rule, regulation, standard, or requirement issued or promulgated pursuant to the HWCL strictly liable for a civil penalty not to exceed \$25,000 for each violation of a separate provision or, for continuing violations, \$25,000 for each day that a violation continues.

12. Health and Safety Code section 25181 provides that when the Department determines that any person has engaged in, is engaged in, or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of Chapter 6.5, or any rule, regulation, permit, covenant, standard, requirement, or order issued, promulgated, or

executed thereunder, the Department may request the Attorney General to apply to the superior court for an order enjoining such acts or practices, or for an order directing compliance, and upon a showing by the Department that the person has engaged in or is about to engage in any of those acts or practices, a permanent or temporary injunction, restraining order, or other order may be granted.

13. Health and Safety Code section 25184 provides that in any civil action brought pursuant to the HWCL in which a temporary restraining order, preliminary injunction, or permanent injunction is sought, it shall not be necessary to allege or prove at any stage of the proceeding that irreparable damage will occur should the temporary restraining order, preliminary injunction, or permanent injunction not be issued; or that the remedy at law is inadequate, and the temporary restraining order, preliminary injunction, or permanent injunction shall issue without such allegations and without such proof.

## GENERAL ALLEGATIONS

14. Romic's East Palo Alto facility is permitted to engage in the following hazardous waste treatment activities: distillation and fractionation; liquefaction and fuel blending; consolidation of lab packs; neutralization of aqueous wastes, distillation of aqueous waste to remove organic compounds and metals; and bio-treatment of aqueous wastes. Romic's permitted hazardous waste processing units include, but are not limited to: distillation and fractionation units for solvent reclamation; distillation process units for stripping solvents from aqueous waste streams; alternate fuel blending units including a drum liquefaction process unit; neutralization units; metal reclamation units; and a bio-treatment system. Romic has 50 permitted hazardous waste storage tanks. Romic has four permitted drum storage buildings (North, South, West #1 and West #2). Romic also has a regulated drum sampling area where incoming hazardous waste drums may be kept for up to 144 hours. Romic's total drum storage capacity, excluding the drum sampling area, is 2531 55-gallon size drums or a total of 139,205 gallons. Additionally, Romic is permitted to store up to 68 cubic yards of solid hazardous waste in roll-off bins.

15. DTSC issued Romic a five year California Hazardous Waste Facility

1 Permit ("HWFP") on or about May 21, 1986. Romic's HWFP was modified by DTSC on or  
2 about July 23, 1990, and again modified on or about March 23, 2000. Romic is authorized to  
3 continue to operate under its expired modified permit pursuant to title 22, Cal. Code Reg.,  
4 section 66270.51(a) while Romic undergoes DTSC's permit renewal process.

5 16. On or about August 1, 2000, DTSC and Romic entered into a Partial  
6 Consent Order that authorized Romic to operate additional tanks for the storage of hazardous  
7 waste.

8 17. Health and Safety Code section 25202(a) requires owners and operators of  
9 permitted hazardous waste facilities to comply with all conditions of the hazardous waste  
10 facilities permit, all requirements of Health and Safety Code, Division 20, Chapter 6.5, and  
11 related regulations adopted by the Department.

12 18. Title 22, Cal. Code Reg., section 66270.30(a) requires a permit holder to  
13 comply with all permit conditions.

14 19. Romic's HWFP includes the following general conditions:

15 (a) Any treatment or storage of hazardous wastes not authorized in  
16 this permit is prohibited. HWFP II (B).

17 (b) Any permit noncompliance constitutes grounds for enforcement  
18 action. HWFP II (G)(1)(a).

19 20. On or about July 23, 1990, the United States Environmental Protection  
20 Agency issued a federal HWFP to Romic. This permit was appealed and eventually reissued on  
21 or about July 23, 1992, with an effective date of August 25, 1992. This ten year permit expired  
22 on or about August 25, 2002.

23 21. Romic operated its Rail Terminal Facility under a variance from  
24 permitting requirements. DTSC granted a five year variance on or about April 16, 1991. On or  
25 about April 16, 1996, DTSC extended Romic's variance for an additional five years. The  
26 variance was further extended by DTSC through December 31, 2001. Romic's variance allowed  
27 the rail terminal facility to receive tanker trucks containing hazardous waste that had been  
28 blended at Romic's East Palo Alto facility. Romic's variance further allowed the transfer of

1 blended hazardous waste from tanker trucks to railcars for offsite shipment.

2           22. On or about January 10, 2002, DTSC issued a ten year Standardized  
3 Hazardous Waste Permit (“Standardized Permit”) to Romic for the Rail Terminal Facility.  
4 Romic’s Standardized Permit, Part I(F)(1), requires Romic to comply with the conditions of the  
5 Standardized Permit, the Health and Safety Code and all applicable regulations. Pursuant to its  
6 Standardized Permit, Romic is allowed to transfer and store hazardous waste received from  
7 Romic’s East Palo Alto facility in Romic tanker trucks into railcars destined/manifested to  
8 authorized hazardous waste facilities. Further, Romic may receive, at the Rail Terminal facility,  
9 manifested hazardous waste for transfer and storage of this hazardous waste from railcars into  
10 Romic tanker trucks destined/manifested to Romic’s East Palo Alto facility.

11           23. Between October, 1999 and December, 2004, the Department conducted  
12 approximately twelve (12) separate inspections/investigations of the two Romic facilities.  
13 During the course of the twelve (12) inspections/investigations, the Department observed  
14 violations of the HWCL and related regulations.

### 15                                   **CAUSES OF ACTION**

#### 16                                   **FIRST CAUSE OF ACTION**

17                                   (Storage of Hazardous Waste in Unauthorized Containers in Unauthorized Areas)

18           24. Paragraphs 1 to 23 are re-alleged as if fully set forth herein.

19           25. Romic violated Health and Safety Code section 25202(a), title 22, Cal.  
20 Code Reg., section 66270.30(a) and its HWFP II (B) as set forth below.

21                   (a) Romic stored hazardous waste in Tanker T-17, an unauthorized  
22 container in an unauthorized area on the following dates:

- 23                   (1) On or about June 29, 2001, through on or about August 18,  
24                                   2001; and,  
25                   (2) On or about June 17, 2003, through on or about June 23,  
26                                   2003.

27           ///

28           ///

- 1 (b) Romic stored hazardous waste in the Magirus Tanker, an  
2 unauthorized container in an unauthorized area on the following  
3 dates:  
4 (1) On or about July 5, 2001;  
5 (2) On or about July 17, 2001; and,  
6 (3) On or about July 23, 2001.  
7 (c) On or about July 5, 2001, Romic stored hazardous waste in Van  
8 47, an unauthorized container in an unauthorized area.  
9 (d) On or about July 16, 2001, through on or about July 27, 2001,  
10 Romic stored hazardous waste in an Allwaste van, an unauthorized  
11 container in an unauthorized area.  
12 (e) On or about July 16, 2001, through on or about July 20, 2001,  
13 Romic stored hazardous waste in a KVS van, an unauthorized  
14 container in an unauthorized area.  
15 (f) On or about June 29, 2001, through on or about August 15, 2001,  
16 Romic stored hazardous waste in Tanker T-4, an unauthorized  
17 container in an unauthorized area.  
18 (g) On or about July 2, 2001, through August 7, 2001, Romic stored  
19 hazardous waste in Tanker BT-1, an unauthorized container in an  
20 unauthorized area.  
21 (h) On or about June 29, 2001, through October 4, 2001, Romic stored  
22 hazardous waste in Tanker T-10, an unauthorized container in an  
23 unauthorized area.  
24 (i) On or about June 29, 2001, through August 7, 2001, Romic stored  
25 hazardous waste in Tanker T-12, an unauthorized container in an  
26 unauthorized area.  
27 (j) On or about December 20, 2000, through January 2, 2001, Romic  
28 stored hazardous waste in Tanker T-9, an unauthorized container

1 in an unauthorized area.

2 (k) On or about June 28, 2004, Romic stored hazardous waste in  
3 approximately four (4) 250-gallon portable tanks, unauthorized  
4 containers in an unauthorized area.

5 **SECOND CAUSE OF ACTION**  
6 (Storage of Hazardous Waste in Unauthorized Containers)

7 26. Paragraphs 1 to 25 are re-alleged as if fully set forth herein.

8 27. Romic violated Health and Safety Code section 25202(a), title 22, Cal.  
9 Code Reg., section 66270.30(a) and its HWFP II (B) as set forth below.

10 (a) On or about December 28, 2000, through January 25, 2001, Romic  
11 stored hazardous waste in Tank 71, an unauthorized container.

12 (b) On or about June 1, 2002, through June 30, 2002, Romic stored  
13 hazardous waste in Tank 40, an unauthorized container.

14 **THIRD CAUSE OF ACTION**  
15 (Storage of Hazardous Waste in an Unauthorized Area)

16 28. Paragraphs 1 to 27 are re-alleged as if fully set forth herein.

17 29. Romic's HWFP II (F)(2) provides, "[t]he owner or operator shall operate  
18 and maintain the facility in accordance with the Operation Plan."

19 30. Romic's Facility Operation Plan ("OP") XIV (6)(a) & (c), describes the  
20 hazardous waste container storage areas. Further, this section describes the type of hazardous  
21 waste containers that may be stored in a given area.

22 31. Pursuant to OP XIV (6)(a) & (c), roll-off containers are only authorized  
23 for storage in West Storage Building 1.

24 32. Pursuant to OP XIV (6)(a) & (c), containers holding corrosive waste are  
25 only authorized for storage in West Storage Building 1.

26 33. Romic violated Health and Safety Code section 25202(a), title 22, Cal.  
27 Code Reg., section 66270.30(a), HWFP II (F)(2), and OP XIV (6)(a) & (c) as set forth below.



- 1 (a) On or about December 16, 1999, through December 23, 1999,  
2 Romic stored hazardous waste in Roll-off Container 1 in an  
3 unauthorized storage area, namely, outside of and behind the north  
4 end of the North Drum Storage Area.
- 5 (b) On or about December 21, 1999, through December 28, 1999,  
6 Romic stored hazardous waste in Roll-off Container 2 in an  
7 unauthorized storage area, namely, outside of and behind the north  
8 end of the North Drum Storage Area.
- 9 (c) On or about July 5, 2001, Romic stored 13 drums of corrosive  
10 hazardous waste in the South Drum Storage Building.
- 11 (d) On or about July 20, 2001, Romic stored two drums of corrosive  
12 waste and a lab pack labeled oxidizer/corrosive in an unauthorized  
13 storage area, namely, the South Drum Storage Building.
- 14 (e) On or about June 23, 2003, Romic stored one drum of corrosive  
15 hazardous waste in an unauthorized storage area, namely, the  
16 South Drum Storage Building.
- 17 (f) On or about June 23, 2003, Romic stored two drums of lab-packed  
18 acids in an unauthorized storage area, namely, the West Storage  
19 Building No. 2.
- 20 (g) On or about June 17, 2003, through June 23, 2003, Romic stored  
21 hazardous waste in a roll-off container in an unauthorized storage  
22 area, namely, the North Drum Storage Building.
- 23 (h) On or about June 28, 2004, Romic stored approximately 71 55-  
24 gallon drums of lab-packed corrosives in an unauthorized area,  
25 namely, the West Storage Building No. 2.
- 26 (i) On or about June 29, 2004, Romic stored approximately one drum  
27 of corrosive waste in an unauthorized storage area, namely, the  
28 South Drum Storage Building.

1  
2 **FOURTH CAUSE OF ACTION**  
3 (Combining Incompatible Hazardous Waste)

4 34. Paragraphs 1 to 33 are re-alleged as if fully set forth herein.

5 35. Title 22, Cal. Code Reg., section 66264.177(a) prohibits placing  
6 incompatible hazardous waste in the same container.

7 36. Romic's OP XIV(C)(4) prohibits incompatible waste from being placed in  
8 the same container.

9 37. Romic violated Health and Safety Code section 25202(a), title 22, Cal.  
10 Code Reg., sections 66270.30a, 66264.177(a), HWFP II (F)(2), and OP XIV(C)(4) on or about  
11 December 16, 1999, through December 28, 1999, Romic stored incompatible hazardous waste in  
12 Roll-off Bins 1 and 2. These actions resulted in fires on December 23 and 28, 1999.

13 **FIFTH CAUSE OF ACTION**  
14 (Storage of Incompatible Hazardous Wastes without Separation)

15 38. Paragraphs 1 to 37 are re-alleged as if fully set forth herein.

16 39. Title 22, Cal. Code Reg., section 66264.177(c) prohibits the storage of  
17 incompatible hazardous waste containers without physical separation.

18 40. Romic's HWFP III (E)(3)(b) provides:

19 "Areas used for storing containers of incompatible  
20 hazardous waste shall be widely separated. Impermeable  
21 physical barriers such as berms, dikes, or walls shall be  
provided to ensure that commingling of incompatible  
hazardous wastes cannot occur."

22 41. Romic violated Health and Safety Code section 25202(a), title 22, Cal.  
23 Code Reg., sections 66270.30a and 66264.177(c) and HWFP III (E)(3)(b) as set forth below.

24 (a) On or about July 5, 2001, Romic stored incompatible hazardous  
25 waste without physical separation by storing a drum of corrosive  
26 waste next to three drums of flammable waste liquids in the Drum  
27 Sampling Area, an unauthorized area for the storage of corrosive  
28 wastes.

- 1 (b) On or about July 5, 2001, Romic stored incompatible hazardous  
2 waste without physical separation by storing a drum of corrosive  
3 liquid waste between three drums of flammable waste liquids in  
4 the South Drum Building.
- 5 (c) On or about July 5, 2001, Romic stored incompatible hazardous  
6 waste without physical separation by storing a drum of corrosive  
7 solid waste next to a drum of flammable waste sludge in the South  
8 Drum Building.
- 9 (d) On or about July 20, 2001, Romic stored incompatible hazardous  
10 waste without physical separation by storing two drums of  
11 corrosive solid waste next to a drum of flammable liquid waste in  
12 the Drum Sampling Area an unauthorized area for the storage of  
13 corrosive wastes.
- 14 (e) On or about July 20, 2001, Romic stored incompatible wastes  
15 without physical separation by stacking one drum of corrosive  
16 waste on top of a drum of flammable waste in the South Drum  
17 Storage Building.
- 18 (f) On or about June 18, 2003, through on or about June 23, 2003,  
19 Romic stored incompatible hazardous waste without physical  
20 separation by storing three drums of corrosive wastes next to a  
21 drum of caustic waste in the Drum Sampling Area, an  
22 unauthorized area for the storage of corrosive wastes.

23 **SIXTH CAUSE OF ACTION**  
24 (Failure as Receiving Facility to Sign and Date Manifests)

25 42. Paragraphs 1 to 41 are re-alleged as if fully set forth herein.

26 43. Title 22, Cal. Code Reg., sections 66264.71(a)(1) and (3) requires the  
27 owner or operator of a hazardous waste facility to sign and date the uniform hazardous waste  
28 manifest upon receipt and immediately provide a copy of the signed and dated manifest to the

1 transporter of the hazardous waste shipment.

2 44. Romic's HWFP III (I)(1)(c) and (e) provides,

- 3 "1. The owner or operator shall (for waste generated  
4 offsite):  
5 c. Sign and date each copy of the manifest to certify that  
6 the hazardous waste covered by the manifest was received;  
7 e. Immediately give the transporter at least one copy of the  
8 signed manifest[.]"

9 45. Romic violated Health and Safety Code section 25202(a), and title 22,  
10 Cal. Code Reg., sections 66270.30a and 66264.71(a)(1) and (3), and HWFP III (I)(1)(c) and (e)  
11 by not signing each respective manifest on the date of receipt as set forth below.

12 (a) On or about December 27, 2000, hazardous waste was delivered to  
13 Romic pursuant to hazardous waste manifests 20512150,  
14 20512143 and 20512139. On or about December 28, 2000, Romic  
15 off-loaded the waste listed on the foregoing manifests. On or  
16 about December 29, 2000, Romic signed the manifests 20512150,  
17 20512143 and 20512139 signifying Romic's receipt of the shipped  
18 hazardous waste.

19 (b) On or about July 2, 2001, hazardous waste was delivered to Romic  
20 pursuant to manifest 21063940 on Romic Van B-8. On or about  
21 July 5, 2001, Department personnel observed this waste stored on  
22 Romic Van 47. Romic signed manifest 21063940 on July 13,  
23 2001, signifying Romic's receipt of the shipped hazardous waste.

24 (c) On or about July 2, 2001, hazardous waste was delivered to Romic  
25 pursuant to manifest 21063939 on Romic Van B-9. On or about  
26 July 5, 2001, Department personnel observed this waste stored on  
27 Romic Van 47. Romic signed manifest 21063939 on July 12,  
28 2001, signifying Romic's receipt of the shipped hazardous waste.

(d) On or about May 31, 2001, hazardous waste was delivered to  
Romic pursuant to manifest 20697706 on Romic Van B-8. Romic

signed manifest 20697706 on June 19, 2001, signifying Romic's receipt of the shipped hazardous waste.

(e) On or about March 2, 2000, Pacific Coast Lacquer delivered hazardous waste to Romic pursuant to manifests 99494882, 99498459, 99498470, 99498804, 99498805, 99498810, 99498813, 99498815, 99498816, 99498819, 99498825, 99498828, 99498830, 99498838, 99498840, 99498842, 99498843, 99498847, 99498860, 99498865, 99498875, 99498940, 99498984, 99498985 and 99498987. Romic off-loaded the waste to Tank A on March 2, 2000. Romic signed and dated the certificate of receipt of these manifests on March 17, 2000.

(f) On or about May 24, 2000, Pacific Coast Lacquer delivered hazardous waste to Romic pursuant to manifests 98375611, 98374660, 98374685, 98374715, 98374724, 98374726, 98374742, 98374743, 98374744, 98375603, 99495988, and 98374733. Romic off-loaded the waste to Tank K on May 24, 2000. Romic signed and dated the certificate of receipt on these manifests on May 30, 2000.

(g) On or about May 24, 2000, Pacific Coast Lacquer delivered hazardous waste to Romic pursuant to manifests 98371720, 98372259, 98374683, and 98374730. Romic off-loaded the waste to Tank K on May 24, 2000. Romic signed and dated the certificate of receipt on these manifests on June 10, 2000.

(h) On or about July 14, 2000, Pacific Coast Lacquer delivered hazardous waste to Romic pursuant to manifest 20273239. Romic off-loaded the waste to Tank K on July 14, 2000. Romic signed and dated the certificate of receipt on these manifests on August 3, 2000.

- (i) On or about September 27, 2000, Pacific Coast Lacquer delivered hazardous waste to Romic pursuant to manifests 20416759, 20269518, 20269534, 20416728, 20416729, 20416734, 20416738, 20416754, 20416763, 20416766, 20416903, 20416952 and 20416965. Romic off-loaded the waste to Tank L on September 27, 2000. Romic signed and dated the certificate of receipt on these manifests on October 11, 2000.
- (j) On or about September 28, 2000, Pacific Coast Lacquer delivered hazardous waste to Romic pursuant to manifests 20416902, 20269387, 20269509, 20416730, 20416740, 20416745, 20416747, 20416748, 20416758, 20416838, 20416841, 20416843, 20416844, 20416845 20416846, 20416850, 20416851, 20416855, 20416905 and 20416916. Romic off-loaded the waste to Tank M on September 28, 2000. Romic signed and dated the certificate of receipt on these manifests on October 11, 2000.
- (k) On or about October 6, 2000, Pacific Coast Lacquer delivered hazardous waste to Romic pursuant to manifests 20416992, 20416683, 20416896, 20416897, 20416959, 20416970, 20416971, 20416972, 20416976, 20416980, 20416981, 20416985, 20416989, 20416995, 20417002, 20417010, 20417011, 20417013, 20417017, 20417020, 20417327, 20417342, 20417537. Romic off-loaded the waste to Tank M on October 6, 2000. Romic signed and dated the certificate of receipt on these manifests on October 23, 2000.
- (l) On or about December 21, 2000, Pacific Coast Lacquer delivered hazardous waste to Romic pursuant to manifests 20435423, 20435438, 20606257, 20606278, 20608220, 20608222, 20608225, 20608227, 20608228, 20608229, 20608232, 20608244, 20608245, 20608247, 20608248, 20608252, 20608255, 20608257, 20608259,

20608261, 20608264, 20608267, 20608272, 20608277, 20608282,  
20608290, 20608303 and 20608576. Romic off-loaded the waste  
to Tank M on December 21, 2000. Romic signed and dated the  
certificate of receipt on these manifests on December 22, 2000.

(m) On or about January 22, 2001, Pacific Coast Lacquer delivered  
hazardous waste to Romic pursuant to manifests 20778982,  
20608239, 20608288, 20608345, 20608527, 20608531, 20608535,  
20608543, 20608584, 20608586, 20608590, 20608594, 20610033,  
20612683, 20612690 and 20778986. Romic off-loaded the waste  
to Tank M on January 22, 2001. Romic signed and dated the  
certificate of receipt on these manifests on January 23, 2001.

(n) On or about March 1, 2001, Pacific Coast Lacquer delivered  
hazardous waste to Romic pursuant to manifests 20695218,  
20695222, 20695226, 20695237, 20695286, 20695287, 20695289,  
20695295, 20695347, 20893923, 20893928, 20894083, 20894089,  
20894166, 20894167, 20894170, 20894173, 20894177, 20894179,  
20894192. Romic off-loaded the waste to Tank M on March 1,  
2001. Romic signed and dated the certificate of receipt on this  
manifests on March 5, 2001.

**SEVENTH CAUSE OF ACTION**  
(Failure to Keep Accurate Operating Records)

46. Paragraphs 1 to 45 are re-alleged as if fully set forth herein.

47. Title 22, Cal. Code Reg., section 66264.73(b) requires the owner or  
operator of a hazardous waste facility to keep operating records of its hazardous waste  
operations, including, but not limited to the description and quantity of all hazardous waste  
received, the methods and dates of treatment, transfer, storage or disposal, the location of each  
hazardous waste within the facility.

1                   48.     Romic's HWFP III (R)(2)(a)(1) and (2) requires Romic to keep complete  
2 and accurate hazardous waste operating records.

3                   49.     Romic violated Health and Safety Code section 25202(a), title 22, Cal.  
4 Code Reg., sections 66270.30(a) and 66264.73(b), and HWFP III (R)(2)(a)(1) and (2) as set forth  
5 below.

6                   (a)     Romic failed to keep accurate records on the following dates:

7                   (1)     On or about December 16, 1999, Romic consolidated  
8 hazardous waste in Roll Off Bin 1. Romic recorded the  
9 date of this consolidation as December 17, 1999.

10                  (2)     On or about December 22, 1999, Romic consolidated  
11 hazardous waste in Roll Off Bin 2. Romic recorded the  
12 date of this consolidation as December 29, 1999.

13                  (3)     On or about December 16, 1999, Romic consolidated  
14 hazardous waste in Roll Off Bin 1. Romic failed to record  
15 that the consolidated waste included some waste from  
16 uniform hazardous waste manifest 99755735.

17                  (4)     On or about December 22, 1999, Romic consolidated  
18 hazardous waste in Roll Off Bin 2. Romic failed to record  
19 that the consolidated waste included some waste from  
20 uniform hazardous waste manifest 99755735.

21                  (5)     On or about December 13, 1999, Romic failed to list  
22 manifest 99755735 on its operating record. Manifest  
23 99755735 included the empty vinyl benzyl chloride drums,  
24 believed to be the source of a fire.

25                  (b)     Beginning on a date presently unknown, but not less than five  
26 years before the date of this complaint, through on or about  
27 February 12, 2002, Romic failed to identify in the operating  
28 records the specific hazardous waste containers that were



processed through its permitted liquefaction unit.

(c) On or about January 16, 2001 through on or about January 19, 2001, Romic failed to keep accurate records tracking hazardous waste analysis on waste fuels blended for Romic's Alternative Fuels program shipped from its main facility to its Rail Terminal.

(d) Romic failed to correctly record tanker samples in its Tanker Sample Log by switching the sample information for Tanker 8 with the Tanker 18 on the following dates:

(1) On or about January 18, 2001; and,

(2) On or about January 19, 2001.

(e) On or about June 25, 2002, Romic documented three incoming loads on its Tanker Sampling Log twice.

(f) On or about June 27, 2002, Romic documented three incoming loads on its Tanker Sampling Log twice.

(g) Romic failed to keep accurate tank records by recording hazardous waste amounts that exceeded the permitted tank capacity as set forth below:

(1) Romic's operating records indicated that Tank 5 held more hazardous waste than its permitted capacity on or about October 27, 1999.

(2) Romic's operating records indicate that Tank I held more hazardous waste than its permitted capacity on the following dates:

(A) On or about December 4, 2000;

(B) On or about December 14, 2000;

(C) On or about December 15, 2000;

(D) On or about December 18, 2000;

(E) On or about December 21, 2000;

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- (F) On or about December 22, 2000;
- (G) On or about December 25, 2000;
- (H) On or about December 26, 2000;
- (I) On or about December 28, 2000;
- (J) On or about December 30, 2000;
- (K) On or about December 31, 2000;
- (L) On or about January 3, 2001;
- (M) On or about January 8, 2001;
- (N) On or about January 15, 2001; and,
- (O) On or about January 22, 2001.

(3) Romic's operating records indicate that Tank J held more hazardous waste than its permitted capacity on the following dates:

- (A) On or about October 27, 1999;
- (B) On or about October 1, 2000;
- (C) On or about October 2, 2000;
- (D) On or about December 14, 2000;
- (E) On or about December 15, 2000;
- (F) On or about December 25, 2000;
- (G) On or about December 26, 2000;
- (H) On or about December 28, 2000;
- (I) On or about January 8, 2001;
- (J) On or about January 15, 2001;
- (K) On or about January 22, 2001; and,
- (L) On or about January 29, 2001.

(4) Romic's operating records indicate that Tank K held more hazardous waste than its permitted capacity on or about October 27, 1999.

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- (5) Romic's operating records indicate that Tank L held more hazardous waste than its permitted capacity on or about the following dates:
- (A) On or about October 27, 1999;
  - (B) On or about October 16, 2000;
  - (C) On or about November 27, 2000;
  - (D) On or about January 15, 2001; and,
  - (E) On or about July 6, 2001.
- (6) Romic's operating records indicate that Tank M held more hazardous waste than its permitted capacity on the following dates:
- (A) On or about November 21, 2000; and,
  - (B) On or about July 6, 2001.
- (7) Romic's operating records indicate that Tank R-91 held more hazardous waste than its permitted capacity on the following dates:
- (A) On or about December 12, 2000; and
  - (B) On or about December 15, 2000.
- (8) Romic's operating records indicate that Tank R-91 held more hazardous waste than its permitted capacity on October 27, 1999.
- (h) On or about June 27, 2002, Romic's operating records indicate that it shipped hazardous waste pursuant to manifests 21598335 and 21598336 from its main facility to its Rail Terminal. The Rail Terminal received these manifests on or about June 27, 2002. These manifests were signed by Romic's main facility on or about June 13, 2002.

- 1 (i) Manifest 21598337 indicates that Romic shipped hazardous waste  
2 on or about June 27, 2002, from its main facility to its Rail  
3 Terminal. This manifest further indicates that the Rail Terminal  
4 accepted the waste on or about June 22, 2002. Romic's operating  
5 records indicate that the hazardous waste was shipped on or about  
6 June 27, 2002.
- 7 (j) On or about December 27 and 28, 2000, Romic's operating records  
8 indicated it stored hazardous waste in the Caustic Column, an  
9 unauthorized container.
- 10 (k) On or about February 29, 2000, Romic's fire incident report was  
11 incomplete.
- 12 (l) On or about December 12, 2002, Romic's operating records  
13 indicate that Romic received hazardous waste from manifest  
14 98496628. Romic's operating records further indicate that Romic  
15 transferred this waste to Tank 102 on December 26, 2002. In fact,  
16 Romic transferred the hazardous waste from manifest 98496628 to  
17 Tank 102 on December 12, 2002.

#### 18 **EIGHTH CAUSE OF ACTION**

19 (Failure to Conduct Tank Assessment on New Tank Prior to its Use)

20 50. Paragraphs 1 to 49 are re-alleged as if fully set forth herein.

21 51. Title 22, Cal. Code Reg., section 66265.192(a) and (g) requires the owner  
22 or operator of a hazardous waste facility to obtain a written assessment reviewed and certified by  
23 an independent professional engineer attesting that a tank has sufficient structural integrity and is  
24 acceptable for the transferring, storing and treating of hazardous waste. This written assessment  
25 must be obtained prior to placing the tank in service. The owner or operator of a hazardous  
26 waste facility must keep a copy of the written tank assessment on site.

27 52. Romic violated Health and Safety Code section 25202(a), and title 22,  
28 Cal. Code Reg., section 66265.192(a) and (g) on or about July 20, 2001, Romic acknowledged

1 that it did not have a tank assessment for the Tanker Washer Tank prior to putting it into service.

2 **NINTH CAUSE OF ACTION**  
3 (Failure to Increase Rail Terminal Facility Financial Assurance for Closure)

4 53. Paragraphs 1 to 52 are re-alleged as if fully set forth herein.

5 54. Title 22, Cal. Code Reg., section 66264.143(b)(7) requires an owner or  
6 operator of a hazardous waste facility to increase its financial assurance within 60 days of  
7 determining that its closure costs estimates exceed the penal amount of its surety bond.

8 55. On or about December 5, 2001, DTSC notified Romic that its  
9 Standardized Permit would become effective on January 10, 2002.

10 56. Romic's Standardized Permit Part 2, Section 10 states that "The Permittee  
11 shall comply with all applicable financial assurances requirements for liability and closure in  
12 accordance with Title 22, Cal. Code Regs., Division 4.5, Chapter 14, Article 8."

13 57. On or about February 3, 2002 through on or about December 17, 2002,  
14 Romic violated Health and Safety Code section 25202(a) and title 22, Cal. Code Reg., section  
15 66264.143(b)(7), and Romic's Standardized Permit Part 2, Section 10 in that its Standardized  
16 Permit closure cost estimate for the Rail Terminal was \$273,042.75. During this same period,  
17 the penal sum of Romic's surety bond for the Rail Terminal was \$100,000.

18 **TENTH CAUSE OF ACTION**  
19 (Treatment of Hazardous Waste in Unauthorized Units)

20 58. Paragraphs 1 to 57 are re-alleged as if fully set forth herein.

21 59. Romic's HWFP II (B) provides, in part, "Any treatment or storage of  
22 hazardous wastes not authorized in this permit is prohibited."

23 60. Romic violated Health and Safety Code section 25202(a), and title 22,  
24 Cal. Code Reg., section 66270.30a, and HWFP II (B) as set forth below.

25 (a) The High Temperature Unit is not permitted by DTSC for  
26 treatment of hazardous waste. Romic treated hazardous waste in  
27 its High Temperature Unit on the following dates:  
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- 1 (1) On or about June 11, 2001 through on or about June 17,  
2 2001;
- 3 (2) On or about October 26, 2001;
- 4 (3) On or about October 30, 2001;
- 5 (4) On or about January 16, 2002; and,
- 6 (5) On or about January 17, 2002.
- 7 (b) The Debris Shredder Unit is not permitted by DTSC for treatment  
8 of hazardous waste. Romic treated hazardous waste by shredding it  
9 in its Debris Shredder Unit on the following dates:
- 10 (1) Beginning on a date presently unknown, but not less, than  
11 five years before the date of this complaint and continuing  
12 through on or about May 15, 2001;
- 13 (2) On or about May 16, 2001;
- 14 (3) On or about May 17, 2001;
- 15 (4) On or about May 18, 2001;
- 16 (5) On or about July 31, 2001;
- 17 (6) On or about September 6, 2001;
- 18 (7) On or about October 11, 2001;
- 19 (8) On or about October 18, 2001;
- 20 (9) On or about October 26, 2001;
- 21 (10) On or about October 31, 2001;
- 22 (11) On or about November 30, 2001;
- 23 (12) On or about December 6, 2001; and,
- 24 (13) On or about December 14, 2001.
- 25 (c) On or about June 23, 2003, Romic consolidated compatible waste  
26 streams to either meet a fuel specification or to be chemically or  
27 physically prepared to be treated, burned for energy value or  
28 incinerated. Romic is not authorized to treat hazardous waste by

consolidation to meet fuel specifications or to chemically or physically prepared to be treated, burned for energy value to incinerated.

**ELEVENTH CAUSE OF ACTION**  
(Exceeding Capacity of Hazardous Waste Tanks)

61. Paragraphs 1 to 60 are re-alleged as if fully set forth herein

62. Romic's HWFP III (C)(2)(a)(6) provides that "[t]he total volume of hazardous waste stored in tanks shall not exceed the designed capacity at any one time."

63. Romic's HWFP, Table 2 sets forth the design capacities for all of Romic's permitted tanks.

64. Romic violated Health and Safety Code section 25202(a), and Cal. Code Reg., title 22, section 66270.30a, HWFP II (F)(2) and III (C)(2)(a)(6), and HWFP, Table 2 as set forth below.

(a) Tank 5 is authorized to store no more than 6,000 gallons of hazardous waste. Romic exceeded the permitted hazardous waste storage capacity of Tank 5 on or about October 27, 1999.

(b) Tank K is authorized to store no more than 8,000 gallons of hazardous waste. Romic exceeded the permitted hazardous waste storage capacity of Tank K on or about October 27, 1999.

(c) Tank L is authorized to store no more than 8,000 gallons of hazardous waste. Romic exceeded the permitted hazardous waste storage capacity of Tank L on the following dates:

(1) On or about October 16, 2000;

(2) On or about November 27, 2000;

(3) On or about January 15, 2001; and

(4) On or about July 6, 2001.

(d) Tank M is authorized to store no more than 8,000 gallons of hazardous waste. Romic exceeded the permitted hazardous waste

storage capacity of Tank M on or about November 21, 2000.

(e) Tank R-91 is authorized to store no more than 4,500 gallons of hazardous waste. Romic exceeded the permitted hazardous waste storage capacity of Tank R-91 on the following dates:

(1) On or about December 12, 2000; and

(2) On or about December 15, 2000.

(f) Tank R-92 is authorized to store no more than 4,500 gallons of hazardous waste. Romic exceeded the permitted hazardous waste storage capacity of Tank R-92 on or about October 27, 1999.

**TWELFTH CAUSE OF ACTION**  
(Acceptance of Unauthorized Waste)

65. Paragraphs 1 to 64 are re-alleged as if fully set forth herein.

66. Romic's HWFP III (B) (3) allows the acceptance of only approved hazardous waste.

67. Romic violated Health and Safety Code section 25202(a), and title 22, Cal. Code Reg., section 66270.30a and HWFP III (B)(3) as set forth below.

(a) On or about January 1, 2001, Romic accepted hazardous waste, via uniform hazardous waste manifest 20868772, that it is not authorized to accept; namely, EPA Waste Code U007 (acrylamide).

(b) On or about April 27, 2000, Romic accepted hazardous waste, via uniform hazardous waste manifest 20068759, that it is not authorized to accept; namely, California Hazardous Waste Code 531 (chemical toilet waste).

(c) On or about January 17, 2002, Romic accepted hazardous waste, via hazardous waste manifest 21634533, that it not authorized to accept; namely, EPA waste code "U188" (phenol solids).



- 1 (d) On or about October 15, 2002, Romic accepted hazardous waste,  
2 via hazardous waste manifest 20075581, that it is not authorized to  
3 accept; EPA waste code "U188" (phenol solids).

4 **THIRTEENTH CAUSE OF ACTION**  
5 (Improper Use and Management of Hazardous Waste Containers)

6 68. Paragraphs 1 to 67 are re-alleged as if fully set forth herein.

7 69. Title 22, Cal. Code Reg., section 66264.171 prohibits that storage of  
8 hazardous waste in containers that are not in good condition (*e.g.* severe rusting, apparent  
9 structural defects) or if the container is leaking. The hazardous waste shall be transferred to a  
10 container in good condition or otherwise managed appropriately.

11 70. Romic's HWFP III (C)(1)(i) provides:

12 "If a container holding hazardous waste is not in good  
13 condition, or if it begins to leak, the owner or operator shall  
14 transfer the hazardous waste from this container to a  
15 container that is in good condition, or manage the waste in  
some other way that complies with the conditions of this  
permit."

16 71. Romic violated Health and Safety Code section 25202, title 22, Cal. Code  
17 Reg., sections 66270.30a and 66264.171 and HWFP III (C)(1)(i) as set forth below.

18 (a) On or about July 5, 2001, Romic stored hazardous flammable  
19 waste in a leaking drum staged for pumping into Tanker T-9 in the  
20 Drum Sampling Area.

21 (b) On or about July 5, 2001, Romic stored hazardous flammable  
22 sludge waste in drum leaking from a hole in the bottom of the  
23 drum at the North Drum Storage Area.

24 (c) On or about July 5, 2001, Romic stored three bulging drums of  
25 hazardous waste to the southeast of the Liquefaction Unit.

26 (d) On or about July 20, 2001, Romic stored one bulging drum of  
27 hazardous waste nitric acid sludge in the South Drum Storage  
28 Area.

**FOURTEENTH CAUSE OF ACTION**  
(Inadequate Aisle Space)

72. Paragraphs 1 to 71 are re-alleged as if fully set forth herein.

73. Title 22, Cal. Code Reg., section 66264.35 requires that the owner or operator of a hazardous waste facility maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless it can be demonstrated to the Department that aisle space is not needed for any of these purposes.

74. Romic's HWFP III (Q) provides:

“The owner or operator shall maintain a minimum of three feet aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment.”

75. Romic violated Health and Safety Code section 25202(a), title 22, Cal. Code Reg., sections 66270.30(a) and 66264.35, and HWFP III (Q) as set forth below.

- (a) On or about July 5, 2001, Romic maintained less than three feet of aisle space in the Drum Sampling Area.
- (b) On or about July 5, 2001, Romic maintained less than three feet of aisle space in the South Drum Storage Area.
- (c) On or about July 5, 2001, Romic maintained less than three feet of aisle space in the West Drum Storage Area, #1.
- (d) On or about July 20, 2001, Romic maintained less than three feet of aisle space in the Drum Sampling Area.
- (e) On or about July 20, 2001, Romic maintained less than three feet of aisle space for hazardous waste stored west of the Drum Sampling Area.

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**FIFTEENTH CAUSE OF ACTION**  
(Failure to Comply with Rail Terminal Standardized Permit Conditions)

76. Paragraphs 1 to 75 are re-alleged as if fully set forth herein.

77. Romic's Rail Terminal Facility Standardized Permit, Part I, Section C (2) allows Romic's Rail Terminal Facility to transfer hazardous waste only to and from Romic tanker trucks.

78. Romic violated Health and Safety Code section 25202(a), title 22, Cal. Code Regs., section 66270.30(a), and Romic's Standardized Permit, Part I, Sections C (2) as set forth below.

(a) Romic's Rail Terminal Facility accepted hazardous waste from Ecology Control Industries on uniform hazardous waste manifests as set forth below on the following dates:

- (1) On or about June 10, 2002, Romic accepted manifests 21598285, 21598286, 21598287 and 21598288;
- (2) On or about June 11, 2002, Romic accepted manifests 21598289, 21598290, 21598291, 21598292 and 21598293;
- (3) On or about June 12, 2002, Romic accepted manifests 21598294, 21598295, 21598296, 21598297, 21598298 and 21598299;
- (4) On or about June 13, 2002, Romic accepted manifests 21598327, 21598328, 21598329, 21598330, 21598331, 21598332, 21598333 and 21598336;
- (5) On or about June 14, 2002, Romic accepted manifests 21598303, 21598304, 21598305, 21598306, 21598307, 21598308 and 21598309;
- (6) On or about June 15, 2002, Romic accepted manifests 21598310 and 21598311;
- (7) On or about June 17, 2002, Romic accepted manifests

- 1 21598312, 21598313, 21598314, 21598315, 21598316,  
2 21598317, 21598318, 21598319 and 21598335;  
3 (8) On or about June 18, 2002, Romic accepted manifests  
4 21598320 and 21598321;  
5 (9) On or about June 22, 2002, Romic accepted manifest  
6 21598337;  
7 (10) On or about June 27, 2002, Romic accepted manifests  
8 21598335 and 21598336;  
9 (11) On or about June 28, 2002, Romic accepted manifests  
10 21598338, 21598339, and 21598341;  
11 (12) On or about June 29, 2002, Romic accepted manifests  
12 21598342, 21598343 and 21598344;  
13 (13) On or about July 1, 2002, Romic accepted manifest  
14 21598345;  
15 (14) On or about July 2, 2002, Romic accepted manifests  
16 21598326 and 21598334;  
17 (15) On or about July 3, 2002, Romic accepted manifests  
18 21598346, 21598347 and 21598348;  
19 (16) On or about July 8, 2002, Romic accepted manifests  
20 21598349, 21598350, 21598351 and 21598352;  
21 (17) On or about July 9, 2002, Romic accepted manifests  
22 21754974, 21754975, 21754976, 21754977 and 21754978;  
23 and  
24 (18) On or about July 10, 2002, Romic accepted manifests  
25 21754979, 21754980, 21754981, 21754982, 21754983 and  
26 21754984.  
27 (b) Romic's Rail Terminal Facility accepted hazardous waste from  
28 Den Beste Transportation on uniform hazardous waste manifests

as set forth below on the following dates:

- (1) On or about May 31, 2002, Romic accepted manifests 21598244, 21598245, 21598246, 21598247 and 21678355;
- (2) On or about June 3, 2002, Romic accepted manifests 21598248, 21598249, 21598250 and 21598251;
- (3) On or about June 20, 2002, Romic accepted manifests 21598252, 21598253, 21598322 and 21678269;
- (4) On or about June 21, 2002, Romic accepted manifests 21678270, 21678271, 21678272, 21678273 and 21678274;
- (5) On or about July 19, 2002, Romic accepted manifests 21754933, 21754934, 21754935 and 21754936;
- (6) On or about July 26, 2002, Romic accepted manifests 21754830, 21754831, 21754832, 21754833, 21754834, 21755104 and 21755105;
- (7) On or about July 27, 2002, Romic accepted manifests 21755106, 21755107, 21755108 and 21755109;
- (8) On or about August 1, 2002, Romic accepted manifests 21755110, 21755111, 21755112 and 21755113;
- (9) On or about August 2, 2002, Romic accepted manifests 21755114, 21755115, 21755116 and 21755117;
- (10) On or about August 5, 2002, Romic accepted manifests 21755118, 21755119, 21755120 and 21755121;
- (11) On or about August 6, 2002, Romic accepted manifests 21755122, 21755123 and 21755124;
- (12) On or about August 19, 2002, Romic accepted manifests 21755125, 21755126 and 21755128;
- (13) On or about August 21, 2002, Romic accepted manifest 21755129;

(14) On or about September 13, 2002, Romic accepted manifests 22233612, 22233613, 22233614, 22233615 and 22233616;

(15) On or about September 24, 2002, Romic accepted manifests 21755131, 21755132 and 21755133;

(16) On or about October 17, 2002, Romic accepted manifests 21755134, 21755135 and 21755136; and

(17) On or about November 1, 2002, Romic accepted manifests 21755137, 21755138 and 21755139.

**SIXTEENTH CAUSE OF ACTION**  
(Failure to Label Hazardous Waste Containers With Date of Acceptance)

79. Paragraphs 1 to 78 are re-alleged as if fully set forth herein.

80. Romic's HWFP III.C (1)(e) provides:

“A label shall be maintained on all containers in which hazardous wastes are stored. Labels shall include the following information:

(5) Date accumulation begins or date of acceptance at the storage facility.”

81. Romic violated Health and Safety Code section 25202(a), title 22, Cal. Code Reg., section 66270.30a and HWFP III (C)(1)(e)(5) on or about July 5, 2001, by storing six drums of hazardous waste without the labels containing the receipt date of the waste in the Drum Sampling Area.

**SEVENTEENTH CAUSE OF ACTION**  
(Permit Modification without Authorization)

82. Paragraphs 1 through 81 are re-alleged as if fully set forth herein.

83. Title 22, Cal. Code Reg., section 66270.42 requires owners and operators of hazardous waste facilities to secure the Department's prior approval before modifying hazardous waste permits.

84. Romic's HWFP II (G)(10) provides, “[t]he owner or operator shall obtain approval from the Department as soon as possible and at least 30 days in advance of any planned

1 physical alterations or additions affecting the operation of the hazardous waste area of the  
2 permitted facility.”

3 85. Romic violated Health and Safety Code section 25202(a), title 22, Cal.  
4 Code Reg., sections 66270.30(a) and 66270.42, HWFP II (G)(10) as set forth below.

5 (a) On or about January 9, 1992, Romic modified the permitted  
6 Liquefaction System without the Department’s prior approval;

7 (b) On or about February 3, 1997, Romic further modified the  
8 permitted Liquefaction System without the Department’s prior  
9 approval; and

10 (c) On or about November 10, 2003, Romic modified permitted  
11 Column 49 without the Department’s prior approval.

12 **EIGHTEENTH CAUSE OF ACTION**  
13 (Training Plan Modifications without Authorization)

14 86. Paragraphs 1 through 85 are re-alleged as if fully set forth herein.

15 87. Romic’s HWFP III (N)(1) provides, “[f]acility personnel will successfully  
16 complete the program of classroom instruction or on-the-job training as described in the  
17 approved Operation Plan.”

18 88. Romic’s Facility OP IX describes its personnel training program

19 89. Beginning on a date presently unknown, but not less, than five years  
20 before the date of this complaint continuing on or about June 25, 2003, Romic violated Health  
21 and Safety Code section 25202(a), title 22, Cal. Code Reg., section 66270.30(a), and HWFP III  
22 (N)(1) by modifying its training plan without the Department’s approval.

23 **NINETEENTH CAUSE OF ACTION**  
24 (Failure to Provide Annual Training)

25 90. Paragraphs 1 through 89 are re-alleged as if fully set forth herein.

26 91. Title 22, Cal. Code Reg., section 66264.16(c) requires owners and  
27 operators of hazardous waste facilities to provide employees with annual review of required  
28 training to ensure the facility’s compliance with hazardous waste requirements.

1                   92.     Romic's HWFP III (N)(3) provides, "[f]acility personnel shall take part in  
2 an annual review of the required training."

3                   93.     Romic violated Health and Safety Code section 25202(a), title 22, Cal.  
4 Code Reg., sections 66270.30(a) and 66264.16(c), and HWFP III (N)(3) by failing to provide  
5 annual training for designated employees as set forth below.

6                   (a)     Romic failed to provide annual training for its employee  
7 designated as a laboratory chemist, who was hired on April 16,  
8 1990 as set forth below:

9                   (1)     On or about 2001, Romic's laboratory chemist was not  
10 provided updated training for emergency procedures and  
11 operating procedures;

12                  (2)     On or about 2002, Romic's laboratory chemist was not  
13 provided updated training for operating procedures; and

14                  (3)     On or about 2003, Romic's laboratory chemist was not  
15 provided updated training for operating procedures.

16                  (b)     Romic failed to provide annual training for its employee  
17 designated as a warehouseman, who was hired on March 26, 1990  
18 as set forth below:

19                  (1)     On or about 2001, Romic's warehouseman was not  
20 provided updated training for operating procedures,  
21 inspection procedures and incidents review procedures;

22                  (2)     On or about 2002, Romic's warehouseman was not  
23 provided updated training for operating procedures,  
24 inspection procedures and incidents review procedures; and

25                  (3)     On or about 2003, Romic's warehouseman was not  
26 provided updated training for operating procedures,  
27 inspection procedures and incidents review procedures.

28                  (c)     Romic failed to provide annual training for its employee



1 designated as a laboratory technician, who was hired on August  
2 21, 1989 as set forth below:

- 3 (1) On or about 2001, Romic's laboratory technician was not  
4 provided updated training for operating procedures,  
5 inspection review procedures and incidents procedures;  
6 (2) On or about 2002, Romic's laboratory technician was not  
7 provided updated training for operating procedures,  
8 inspection review procedures and incidents procedures; and  
9 (3) On or about 2003, Romic's laboratory technician was not  
10 provided updated training for operating procedures,  
11 inspection review procedures and incidents procedures.

12 **TWENTIETH CAUSE OF ACTION**  
13 (Incorrect EPA Identification Number)

14 94. Paragraphs 1 through 93 are re-alleged as if fully set forth herein.

15 95. Title 22, Cal. Code Reg., section 66262.20(a) requires generators who  
16 transports hazardous waste offsite to prepare a manifest including an EPA identification number.

17 96. Romic's HWFP III (I)(2)(a) provides, "[t]he owner/operator shall  
18 complete and sign the generator section of the uniform hazardous manifest."

19 97. Romic violated Health and Safety Code section 25202(a), title 22, Cal.  
20 Code Reg., sections 66262.20(a) and 66270.30(a), and HWFP III (I)(2)(a) by using the incorrect  
21 EPA identification on manifests shipping waste to the Rail Terminal Facility on the following  
22 dates:

- 23 (a) On one manifest on or about September 12, 2003;  
24 (b) On three manifests on or about January 10, 2003;  
25 (c) On four manifests on or about January 11, 2003;  
26 (d) On three manifests on or about January 14, 2003;  
27 (e) On two manifests on or about January 15, 2003;  
28 (f) On two manifests on or about January 16, 2003;

- (g) On two manifests on or about January 9, 2003;
- (h) On one manifest on or about January 8, 2003;
- (i) On two manifests on or about January 6, 2003; and
- (j) On four manifests on or about January 3, 2003.

**TWENTY-FIRST CAUSE OF ACTION**  
(Alteration of Manifest)

98. Paragraphs 1 through 97 are re-alleged as if fully set forth herein.

99. Romic violated Health and Safety Code sections 25189(a) and 25189.2(a) by altering federal manifest 01693 by adding Romic as a transporter without permission of the generator for twenty-eight drums of hazardous waste.

**TWENTY-SECOND CAUSE OF ACTION**  
(Failure to Comply With Permit Conditions)

100. Paragraphs 1 through 99 are re-alleged as if fully set forth herein.

101. Romic's HWFP II (G)(8)(b) provides, "[t]ransfer stations, since they have variable inventories, can handle all wastes except those prohibited in [Romic's OP]."

102. Romic's OP allows Romic to only handle those hazardous wastes that are listed in the OP's Attachment A. Cyanide waste does not appear on Attachment A.

103. Romic violated Health and Safety Code section 25202(a), title 22, Cal. Code Reg., section 66270.30(a) and HWFP II (G)(8)(b), in that on or about June 28, 2004, Romic, as a transporter, placed 6 drums of cyanide waste marked as "transfer" into the Sampling Area.

**TWENTY-THIRD CAUSE OF ACTION**  
(Failure to Maintain Secondary Containment at Rail Terminal Facility)

104. Paragraphs 1 through 103 are re-alleged as if fully set forth herein.

105. Title 22, Cal. Code Reg., section 67800.1 requires owners and operators of standardized permit hazardous waste facilities to comply with title 22, Cal. Code Reg., section 66264.175.

1                   106. Title 22, Cal. Code Reg., section 66264.175(b) requires that a containment  
2 system be designed and operated such that the containment base shall be free of cracks or gaps  
3 and is sufficiently impervious to contain leaks, spills and accumulated precipitation until  
4 collected material is detected and removed.

5                   107. Romic violated Health and Safety Code section 25202(a), title 22, Cal.  
6 Code Reg., sections 67800.1 and 66264.175(b), and its Standardized Permit, Part I(F)(1), in that  
7 on or about December 22, 2004 through on or about February 1, 2005, Romic failed to maintain  
8 its containment system free of cracks or gaps and sufficiently impervious to contain leaks, spills  
9 and accumulated precipitation.

10                   **TWENTY-FOURTH CAUSE OF ACTION**  
11                   (Failure to Comply with Standardized Permit Conditions)

12                   108. Paragraphs 1 through 107 are re-alleged as if fully set forth herein.

13                   109. Romic's Standardized Permit, Part IV(9), requires Romic:

- 14                   (a) to repair any cracks, gaps or tears in its secondary containment  
15 system as soon as possible;  
16                   (b) to complete such repairs within one week of the discovery of such  
17 cracks, gaps or tears in its secondary containment system;  
18                   (c) to notify DTSC within twenty-four (24) hours of discovery of a  
19 crack, gap or tear; and  
20                   (d) to notify DTSC of corrective actions taken within seven (7) days of  
21 discovery.

22                   110. Romic violated Health and Safety Code section 25202(a), and its  
23 Standardized Permit, Part I(F)(1) and Part IV(9) as set forth below.

- 24                   (a) On or before January 28, 2002, Romic discovered a hole in the  
25 containment system's base. Romic repaired this hole on or about  
26 February 12, 2002 exceeding the seven (7) day repair period.  
27 Romic further failed to notify DTSC of the existence of the hole in  
28 the containment system or that it had repaired the problem.

- 1 (b) On or before April 1, 2002, Romic discovered a crack in the  
2 containment system around the containment system's sump.  
3 Romic completed its repairs within the seven (7) day repair period,  
4 but failed to notify DTSC of the crack in the containment system  
5 or that it had repaired the problem.
- 6 (c) On or before January 24, 2003, Romic discovered holes in the  
7 containment system. Romic repaired the holes on or about March  
8 26, 2003 exceeding the seven (7) day repair period. Romic further  
9 failed to notify DTSC of the hole in the containment system or that  
10 it had repaired the problem.
- 11 (d) On or about February 2, 2005, Romic initiated work to repair  
12 deterioration of the secondary containment system. While Romic  
13 timely notified DTSC that it had discovered a problem, it failed to  
14 notify DTSC within seven (7) days of the corrective action taken to  
15 repair the hole.

16 **TWENTY-FIFTH CAUSE OF ACTION**  
17 (Failure to Conduct Inspection at the Rail Terminal Facility)

18 111. Paragraphs 1 through 110 are re-alleged as if fully set forth herein.

19 112. Title 22, Cal. Code Reg., section 66264.15 requires an owner or operator  
20 of a hazardous waste facility to inspect for malfunctions and deterioration, operator errors and  
21 discharges that may cause or lead to a release of hazardous waste to the environment. This  
22 section further requires an owner or operator of a hazardous waste facility to develop and follow  
23 a written schedule, including but not limited to, the inspection of structural equipment.

24 113. Romic violated Health and Safety Code section 25202(a), title 22, Cal.  
25 Code Reg., sections 67800.1 and 66264.15, and its Standardized Permit, Part I(F)(1), in that on  
26 or before December 22, 2004 through on or about February 1, 2005, Romic failed to inspect the  
27 facility for malfunctions and deterioration which may cause or lead to a release of hazardous  
28 waste to the environment by failing to conduct inspections of the secondary containment

1 system's structural integrity.

2 **TWENTY-SIXTH CAUSE OF ACTION**  
3 (Modification of Standardized Permit without Authorization)

4 114. Paragraphs 1 through 113 are re-alleged as if fully set forth herein.

5 115. Title 22, Cal. Code Reg., section 66270.42.5(d) requires owners and  
6 operators of a standardized permit facility to obtain a permit modification pursuant to title 22,  
7 Cal. Code Regs., section 66270.42 before changing the frequency or content of inspection  
8 schedules.

9 116. Romic violated Health and Safety Code section 25202(a) and title 22, Cal.  
10 Code Reg., sections 67800.1 and 66270.42.5(d) in that on or before January 16, 2004 through on  
11 or about February 1, 2005, Romic modified its Rail Terminal Facility Inspection Plan by  
12 reducing the frequency and content of inspections without obtaining a permit modification.

13 **TWENTY-SEVENTH CAUSE OF ACTION**  
14 (Inadequate Rail Facility Training Plan)

15 117. Paragraphs 1 through 116 are re-alleged as if fully set forth herein.

16 118. Title 22, Cal. Code Reg., section 66264.16(d) requires owners and  
17 operators of a hazardous waste facility to have a training plan that includes the job title, a written  
18 description of each job title and the name of the employee filling each job title for each  
19 hazardous waste management job. This section further provides for a written description of the  
20 type and amount of training required for each hazardous waste management job including  
21 introductory and continuing training.

22 119. Romic violated Health and Safety Code section 25202(a), title 22, Cal.  
23 Code Reg., sections 66270.30(a), 67800.1 and 66264.15, and its Standardized Permit, Part  
24 I(F)(1), in that on or before December 22, 2004, Romic failed to have a training plan that listed  
25 the job title, a written description of each job title and the name of the employee filling each job  
26 title for each hazardous waste management job. Romic further violated the foregoing sections by  
27 failing to have a written description of the type and amount of training required for each  
28 hazardous waste management job including introductory and continuing training.

**TWENTY-EIGHTH CAUSE OF ACTION**  
(Statutory Action for Injunction)

120. Paragraphs 1 through 119 are re-alleged as if fully set forth herein.

121. Health and Safety Code section 25181 provides that when the Department:

"determines that any person has engaged in, is engaged in, or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this chapter, or any rule, regulation, permit, covenant, standard, requirement, or order issued, promulgated, or executed thereunder, . . . the Attorney General may make application to the superior court for an order enjoining such acts or practices, or for any order directing compliance, and upon a showing by the Department that such person has engaged in or is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order may be granted."

122. Health and Safety Code section 25184 provides that in civil actions brought pursuant to section 25181 in which an injunction or temporary restraining order is sought:

"it shall not be necessary to allege or prove at any stage of the proceeding that irreparable damage will occur should the temporary restraining order, preliminary injunction, or permanent injunction not be issued; or that the remedy at law is inadequate, and the temporary restraining order, preliminary injunction, or permanent injunction shall issue without such allegations and without such proof."

123. Pursuant to Health and Safety sections 25181 and 25184, each defendant named herein is subject to permanent injunctions, or other orders enjoining each practice or violation.

**PRAYER**

WHEREFORE Plaintiffs pray that the Court:

1. Grant civil penalties according to proof for all violations that are within five years of the date of this complaint against the named Defendant pursuant to the First through Twenty-second Causes of Action;

2. Pursuant to the Twenty-third Cause of Action enter such permanent injunctions or other orders enjoining each practice or violation;

3. Grant plaintiffs their costs of investigation;

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4. Grant plaintiffs their costs of suit herein; and,
5. Grant such other and further relief as the court deems just and proper.

Dated: 3-30-05

BILL LOCKYER,  
Attorney General of the State of California  
THEODORA BERGER  
Senior Assistant Attorney General  
ROSE B. FUA  
Deputy Attorney General

By: (Original signed by G. Lynn Thorpe)  
G. LYNN THORPE  
Deputy Attorney General  
Attorneys for Plaintiff  
The People of the State of California, ex rel.  
B. B. Blevins, Director, California  
Department of Toxic Substances Control